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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

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10
11 TIMOTHY DESCUTIDO,

12 Plaintiff(s),

13 v.

14 DIRECTV,

15 Defendant(s).

2:12-cv-02090-MMD-NJK

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17 **REPORT & RECOMMENDATION OF**
18 **UNITED STATES MAGISTRATE**
19 **JUDGE**

20 Plaintiff Timothy Descutido is proceeding in this action *pro se*. Plaintiff filed a
21 Complaint on December 7, 2012. Docket No. 1. Because the Court granted Plaintiff's request to
22 proceed *in forma pauperis*, the Court screened the pursuant to 28 U.S.C. § 1915(e). Docket No.
23 3. The Court found that Plaintiff's Complaint failed to state a claim and allowed Plaintiff thirty
24 days, until March 1, 2013, to file an amended complaint. Plaintiff has neither filed an amended
25 complaint nor requested an extension of time nor taken any other action to prosecute this case.

26 On March 11, 2013, the Court issued an order requiring Plaintiff to show cause why the
27 Court should not impose sanctions up to and including dismissal for Plaintiff's failure to file an
28 amended complaint by the deadline imposed by the Court. Docket No. 6. The Court further
advised Plaintiff that failure to respond to the order to show cause would result in the
undersigned judge recommending dismissal of this case. *Id.* Plaintiff's response to the order to
show cause was due by March 25, 2013. *Id.*

1 To date, Plaintiff failed to respond to the order to show cause or to file an amended
2 complaint.

3 Accordingly, **IT IS THE RECOMMENDATION** of the undersigned United States
4 Magistrate Judge that this case be **DISMISSED**.

5 **NOTICE**

6 Pursuant to Local Rule IB 3-2 **any objection to this Report and Recommendation**
7 **must be in writing and filed with the Clerk of the Court within 14 days of service of this**
8 **document**. The Supreme Court has held that the courts of appeal may determine that an appeal
9 has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*,
10 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections within the
11 specified time and (2) failure to properly address and brief the objectionable issues waives the
12 right to appeal the District Court's order and/or appeal factual issues from the order of the
13 District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United*
14 *Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

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16 DATED: March 27, 2013

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20 NANCY J. KOPPE
21 United States Magistrate Judge
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